

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 TONY MORRIS BRANDON,

4 Plaintiff

Case No. 2:19-cv-01337-JCM-EJY

ORDER

5 v.

6 H.D.S.P. and  
7 S.D.C.C. MEDICAL UNIT,

8 Defendants

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10 This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983  
11 by a state prisoner. On August 22, 2019, this court issued an order denying the  
12 application to proceed *in forma pauperis*, without prejudice, because the application was  
13 incomplete. (ECF No. 5 at 1). The court ordered plaintiff to file a fully complete application  
14 to proceed *in forma pauperis* or pay the full filing fee of \$400.00 within thirty days from  
15 the date of that order. (*Id.* at 2). The thirty-day period has now expired, and plaintiff has  
16 not filed another application to proceed *in forma pauperis*, paid the full filing fee, or  
17 otherwise responded to the court's order.

18 District courts have the inherent power to control their dockets and “[i]n the  
19 exercise of that power, they may impose sanctions including, where appropriate . . .  
20 dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831  
21 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure  
22 to prosecute an action, failure to obey a court order, or failure to comply with local rules.  
23 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for  
24 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.  
25 1992) (affirming dismissal for failure to comply with an order requiring amendment of  
26 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal  
27 for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of  
28 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming

1 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,  
2 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with  
3 local rules).

4 In determining whether to dismiss an action for lack of prosecution, failure to obey  
5 a court order, or failure to comply with local rules, the court must consider several factors:  
6 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to  
7 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
8 disposition of cases on their merits; and (5) the availability of less drastic alternatives.  
9 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at  
10 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

11 Here, the court finds that the first two factors, the public's interest in expeditiously  
12 resolving this litigation and the court's interest in managing the docket, weigh in favor of  
13 dismissal. The third factor, risk of prejudice to defendants, also weighs in favor of  
14 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay  
15 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*  
16 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring  
17 disposition of cases on their merits—is greatly outweighed by the factors in favor of  
18 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey  
19 the court's order will result in dismissal satisfies the "consideration of alternatives"  
20 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779  
21 F.2d at 1424. The court's order requiring plaintiff to file another application to proceed *in*  
22 *forma pauperis* or pay the full filing fee within thirty days expressly stated: "IT IS  
23 FURTHER ORDERED that if Plaintiff does not timely comply with this order, dismissal of  
24 this action may result." (ECF No. 5 at 2). Thus, plaintiff had adequate warning that  
25 dismissal might result from his noncompliance with the court's order to file another  
26 application to proceed *in forma pauperis* or pay the full filing fee within thirty days.

27 It is therefore ordered that this action is dismissed without prejudice based on  
28 plaintiff's failure to file another application to proceed *in forma pauperis* or pay the full

1 filing fee in compliance with this court's August 22, 2019 order.

2 It is further ordered that the clerk of court will close the case and enter judgment  
3 accordingly.

4 DATED October 7, 2019.

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6 UNITED STATES DISTRICT JUDGE  
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